

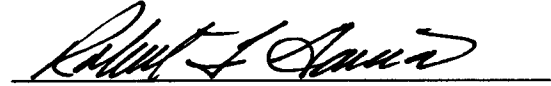
State of California  
Business, Transportation and Housing Agency  
Department of Transportation

HIGHWAY RIGHT OF WAY MATTERS  
Resolution of Necessity - Appearance  
Action Item

CTC Meeting: October 3, 2002

Prepared By:  
Brice Paris  
Chief  
Division of Right of Way  
(916) 654-5075

Reference No.: 2.4a.



ROBERT L. GARCIA  
Chief Financial Officer  
October 1, 2002

RESOLUTION OF NECESSITY - APPEARANCE

The Department of Transportation recommends the California Transportation Commission adopt Resolution of Necessity C-18632. The summary below identifies the location of and designates the nature of the property rights covered by the Resolution of Necessity. In accordance with statutory requirements, the owners have been advised that the Department of Transportation is requesting a resolution at this time. Adoption of Resolution of Necessity C-18632 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18632 - James M. Nelson & Rajeswari S. Nelson

03-But-99-PM 39.87-Parcel 031812-1,2,3,4 - EA: 338702 - Certification Date: 8/01/02 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, an easement for utility anchor purposes, an easement for utility purposes, located in the city of Chico between Wilson Landing Road and Anita Road. APN 47-260-101; 47-260-102.

03-BUT-99

James M. Nelson and Rajeswari S. Nelson

## **SUMMARY OF ISSUES**

September 11, 2002

1. The property owners contend that the project design will cause flooding on the remainder and that traffic congestion will occur at the bridge over Keefer Slough south of the subject property. Moreover, increased traffic speeds after the project is constructed will occur and warrant a left-turn pocket at the entrance to the Nelson's property and their neighbor's property.
2. The Department intends to widen the portion of 03-BUT-99 from a point just north of the intersection of Broyles Road to just north of the intersection of Garner Lane and Highway 99 in Butte County. The highway surface will be rehabilitated and the alignment of the highway will shift slightly westward to straighten it in this location. Standard eight-foot shoulders and clear recovery zones will be provided within the standard 40-foot cross section throughout most of this project. In the vicinity of the Keefer Slough Bridge, standard recovery zones are impracticable.

No increase in traffic capacity is planned. This portion of State Route 99 will continue to be two lanes in each direction throughout the length of this project. There will be no narrowing of lanes at the Keefer Slough Bridge and a continuous two-way left turn median north and south of the bridge will not disturb the flow of traffic. To the contrary, traffic that is slowing to make turns there will be provided a means to exit the flow of other traffic. The Department designed the project to facilitate existing traffic flow at the minimum practicable expense and with minimal impact to neighboring properties. Existing drainage capacity will continue via specific design features to control groundwater.

3. The property owners stated that the project is not planned to promote the most public good and the least private injury. Here again, the perception that flooding will occur on the remainder is raised in objection. The Department has been diligent in consideration of hydraulic flow and will replace and improve culverts and other features to handle it. No increase in the height of ground contour will occur that would cause increased flow onto the owners' remaining property.
4. Mr. Wally Roney, a neighbor who accompanied and advised Mr. Nelson, suggested that the striping plan of the project should include left-hand turn pockets in front of residences to reduce the risk for motorists who must cross the highway median to enter driveways on the opposite shoulder. This design feature was requested in light of the perceived increased speed and number of vehicles on the rehabilitated highway. Project plans do include a left-turn pocket at the entrance of a nearby fire department site as a public service.

It was explained that present and future traffic activity and accident rates are below the state average in this location and are expected to remain so. Further, the straightening of the highway will provide improved sight distance to motorists in the project vicinity. Providing turn pockets for property owners in this location would therefore be a special benefit and would require additional right of way and construction costs. For example, deviation from the designed alignment could force the reconstruction of Keefer Slough Bridge. — — — —

5. Mr. Nelson offered that the issues of traffic control and ground water management seemed to be addressed adequately in the project plans. Disagreement over the adequacy of payment for existing land, improvements and damages resulting from the project fall under the heading of compensation.

03-BUT-99 PM 39.87  
R/W Parcel No. 031812-1,2,3,4  
James M. Nelson and Rajeswari S.  
Nelson

September 11, 2002

## **RESOLUTION OF NECESSITY REVIEW PANEL REPORT**

The Resolution of Necessity Review Panel met at 1:00 PM, September 6, 2002 at the Caltrans Maintenance yard at 2535 Notre Dame Blvd. in Chico. Mr. James Nelson and Mr. Wally Roney represented Mr. and Mrs. Nelson's interests. The Review Panel included Yvonne Von Brauchitsch, Headquarters Legal Division, Linda Fong, Headquarters Design Division and Charles Carrillo, Headquarters Right of Way. Representatives from North Region Design and Right of Way divisions were present to provide project information. This report summarizes the findings of the Review Panel with regard to the four criteria required for a Resolution of Necessity and makes recommendation to the Deputy Director for Project Delivery.

### **NEED FOR THE PROJECT**

This project is a highway Resurfacing, Restoration and Rehabilitation (RRR) project. It lies within a segment of Route 99 that is part of the National Highway System. The project is in Butte County between a point just north of Broyles Rd. and a point just north of Garner Lane north of Chico. In this vicinity the existing State Route is a conventional two-lane highway with narrow cross-section and little or no shoulders for vehicle recovery or off pavement parking. Current traffic consists of commuters, recreational, commercial and agricultural users in this rural setting.

This project is in accord with regional planning documents and complies with the objectives, goals and policies of the 1998 Butte County Association of Governments (BCAG) long range Regional Transportation Improvement Plan. A Negative Declaration was adopted on January 8, 2001. A Categorical Exclusion was approved by FHWA on April 12, 2001 regarding NEPA requirements.

Maintenance costs for this section of roadway are excessive. The pavement conditions warrant roadway rehabilitation. Also, the existing 28 foot (8.4 m) roadway cross section is nonstandard for the over 11,000 annual average daily trips traffic using this roadway. The desirable cross section for an RRR project with this traffic volume is 40 feet (12.0 m), which is the proposed width for this project roadbed.

### **PROJECT DESIGN**

The proposed project will widen the right of way and shift the traveled way slightly westward to straighten the highway. Resurfacing and striping will finish a standard 40-foot (12m) cross-section, two lanes in each direction, with standard eight-foot (2.4m) shoulders on both sides. A 20-foot (6m) recovery zone will be provided on either side of the highway except in the vicinity of Keefer Slough Bridge. Portions of the project north

and south of Keefer Slough Bridge will contain a continuous two-way left turn lane. Total project costs are estimated at \$9.8 million.

#### **NEED FOR THE PARCEL**

The residential and agricultural property owned by Mr. and Mrs. Nelson is needed for construction staging and for the adjusted alignment of Route 99. Proposed clear recovery zones, shoulders, relocation of roadside-drainage ditches and utility poles relocation require the planned width of right of way fronting along the Nelson's property. The planned alignment avoids numerous other residential structures and environmental issues that would arise if the project were realigned to the east.

#### **STATUTORY OFFER TO PURCHASE**

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record in compliance with Government Code Section 7267.2.

#### **PANEL RECOMMENDATION**

The Panel concludes that the District's design complies with Section 1245.230 of the Code of Civil Procedure in that:

- The public interest and necessity require the proposed project.
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- The property to be condemned is necessary for the proposed project.
- An offer to purchase in compliance with Government Code Section 7267.2, has been made to the owners of record.

The Panel recommends submitting a Resolution of Necessity to the California Transportation Commission.



CHARLES CARRILLO  
R/W Division, Panel Chair

I concur with the Panel's recommendation:



BRENT FELKER  
Deputy Director for Project Delivery

PERSONS ATTENDING SECOND LEVEL REVIEW PANEL HEARING ON  
September 6, 2002

Mr. James M. Nelson, Owner  
Mr. Wally Roney, Advisor

Department of Transportation:  
Heidi Sykes, North Region Design Supv.  
Dan Newton, Project Design Engineer  
Don Grebe, North Region Right of Way  
Jeff Phipps, North Region Right of Way  
Julie Franklin, Right of Way  
Linda Fong, Design, Panel Member  
Yvonne Von Brauchitsch, Attorney, Panel  
Member  
Charles Carrillo, Right of Way, Panel Chair

## RESOLUTION OF NECESSITY REQUEST

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C-18632	03-But-99-PM 39.87	James M. Nelson & Rajeswari S. Nelson	031812-1,2,3,4
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### PROJECT STATUS

Project EA: 338702

Certification date: 8/01/02    Proposed advertising date: 9/01/02

Route Adoption Date: 1959    CTC Resolution Number

Environmental Clearance Date: 4/13/01

This is a partial acquisition.

The property owner(s) are not contesting the following findings contained in Section 1245.230 of the Code of Civil Procedure:

1. The public interest and necessity require the project.
2. The project is planned to provide the greatest public good with the least private injury.
3. This property is required for the proposed project.
4. An offer to purchase the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

The only remaining issues with the property owners are related to compensation.

C-18632 - James M. Nelson & Rajeswari S. Nelson

03-But-99-PM 39.87-Parcel 031812-1,2,3,4 - EA: 338702 - Certification Date: 8/01/02 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, an easement for utility anchor purposes, an easement for utility purposes, located in the city of Chico between Wilson Landing Road and Anita Road. APN 47-260-101; 47-260-102.

TRANSPORTATION COMMISSION  
RESOLUTION NO.

**C-18632**

CALIFORNIA TRANSPORTATION COMMISSION  
RESOLUTION OF NECESSITY  
TO ACQUIRE CERTAIN REAL PROPERTY  
OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN  
HIGHWAY 03-But-99-PM 39.87 PARCEL 031812-1,2,3,4  
OWNER: James M. Nelson & Rajeswari S. Nelson

Resolved by the California Transportation Commission after  
notice (and hearing) pursuant to Code of Civil Procedure Section  
1245.235 that it finds and determines and hereby declares that:

The hereinafter described real property is necessary for State  
Highway purposes and is to be acquired by eminent domain pursuant  
to Streets and Highways Code Section 102;

The public interest and necessity require the proposed public  
project, namely a State highway;

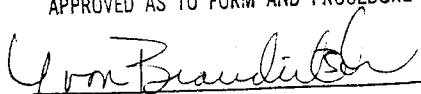
The proposed project is planned and located in the manner that  
will be most compatible with the greatest public good and the least  
private injury;

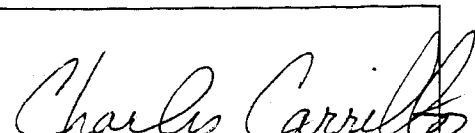
The property sought to be acquired and described by this  
resolution is necessary for the public project;

The offer required by Section 7267.2 of the Government Code  
has been made to the owners or owners of record; and be it further

RESOLVED by this Commission that the Department of  
Transportation be and said Department is hereby authorized and  
empowered;

APPROVED AS TO FORM AND PROCEDURE

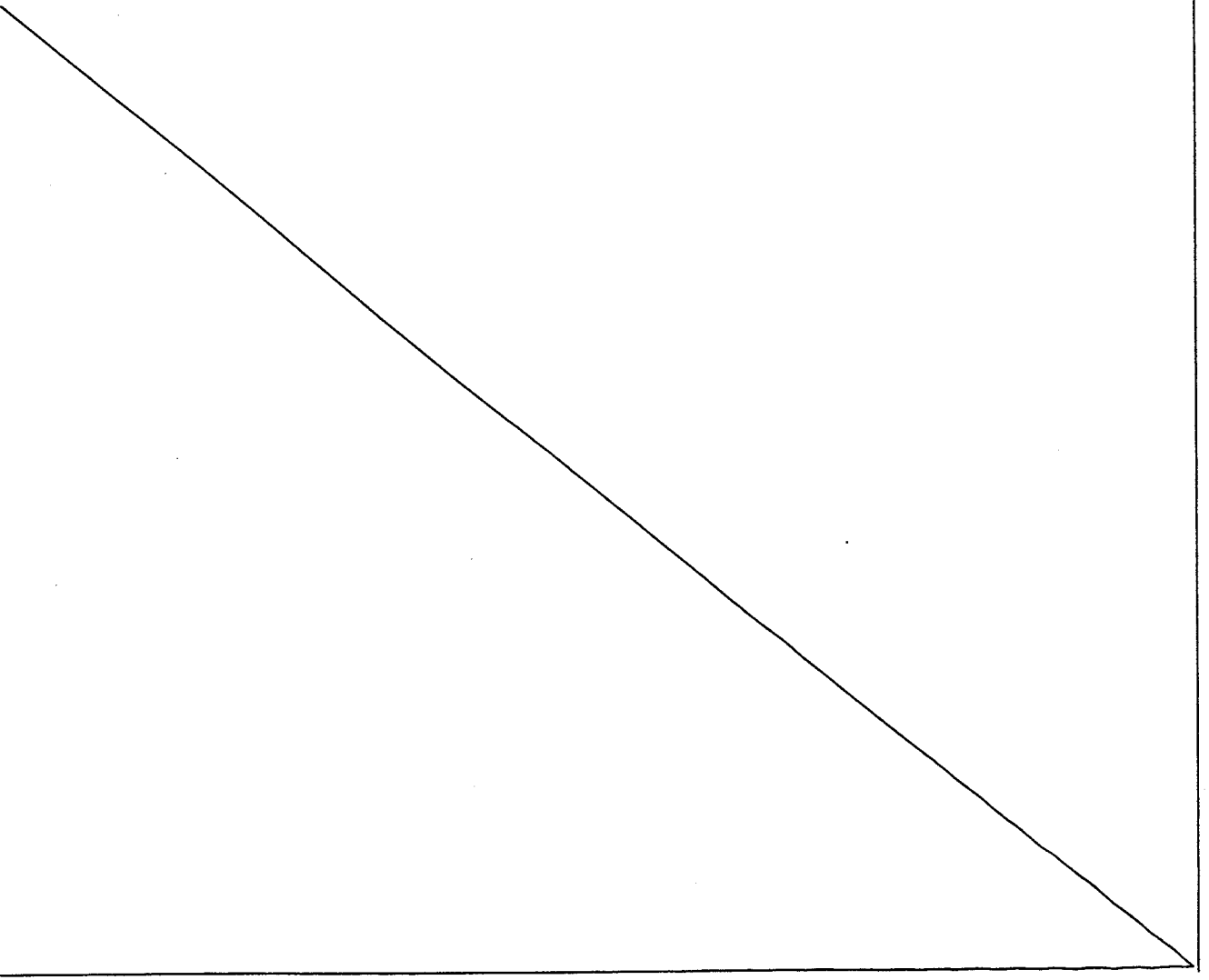
  
ATTORNEY  
DEPARTMENT OF TRANSPORTATION

  
APPROVAL RECOMMENDED



1 To acquire, in the name of the People of the State of  
2 California, in fee simple absolute, unless a lesser estate is  
3 hereinafter expressly described, the said hereinafter described  
4 real property, or interests in real property, by condemnation  
5 proceeding or proceedings in accordance with the provisions of the  
6 Streets and Highways Code, Code of Civil Procedure and of the  
7 Constitution of California relating to eminent domain;

8 The real property or interests in real property, which the  
9 Department of Transportation is by this resolution authorized to  
10 acquire, is situated in the County of Butte, State of California,  
11 Highway 03-But-99 and described as follows:



**PARCEL 031812-1:** For State highway purposes, that portion of the Northwest Quarter of Section 31, Township 23 North, Range 1 East, MDM, as described in the Deeds recorded November 29, 1974 in Book 1953 of Official Records, Page 637, and November 19, 1975 in Book 2029 of Official Records, Page 566, in the office of the Recorder of the County of Butte, State of California, and a portion described in Quitclaim Deed from Patrick R. Black to James M. Nelson and Rajeswari S. Nelson, recorded February 28, 1991 in Document No. 91-007677 of Official Records in the office of the Recorder of the County of Butte, State of California, lying northeasterly of the following described line:

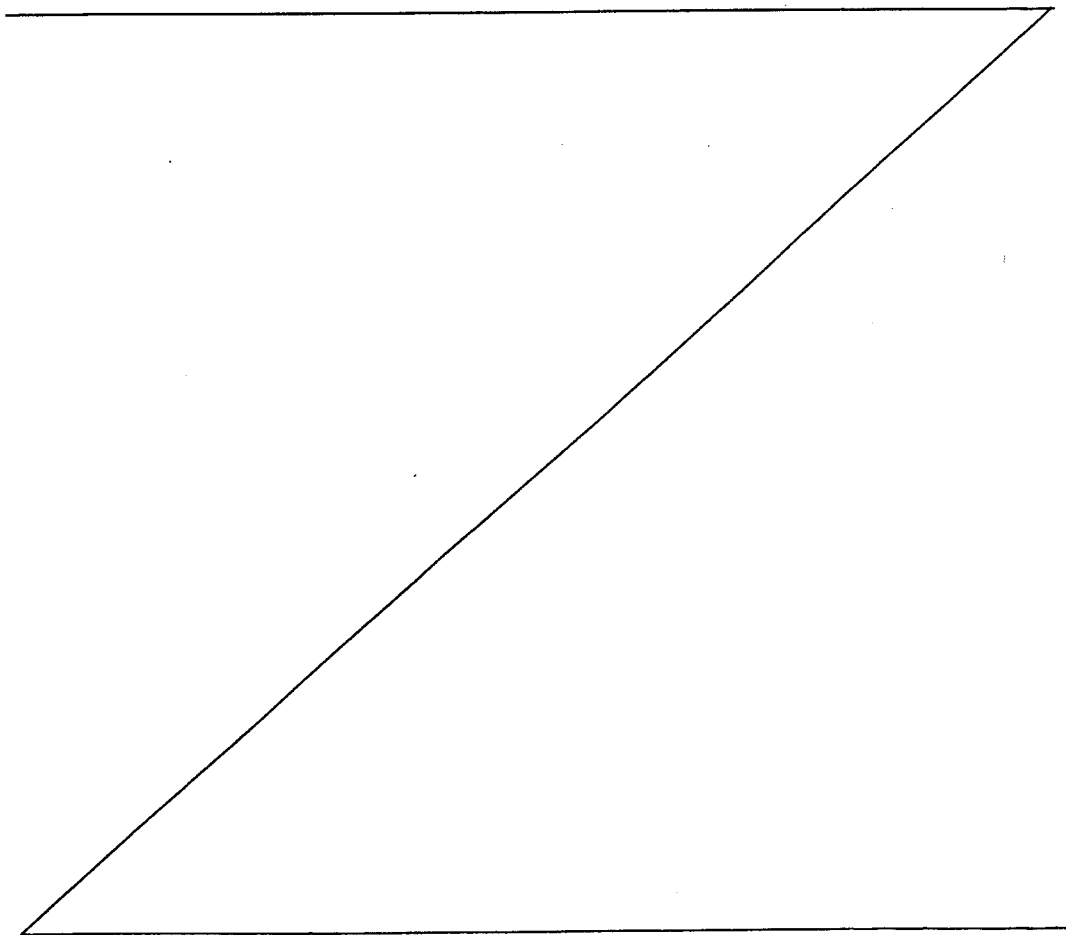
Commencing at a point on the westerly line of Parcel No. 2 of "Map of the PRIESING LANDS", filed May 24, 1911, in Book 7 of Maps, Page 23, in the office of the Recorder of the County of Butte, State of California, which bears North 06°18'40" East, 58.616 meters from a 1" iron pipe stamped "RCE 16803"; thence leaving said westerly line of Parcel No. 2, North 26°53'12" West, 535.136 meters to a tangent curve to the left having a radius of 583.000 meters and a central angle of 15° 24' 07"; thence along said curve 156.719 meters; thence North 42°17'19" West, 217.214 meters; thence North 41°59'46" West, 281.457 meters to the POINT OF BEGINNING; thence continuing North 41°59'46" West, 214.138 meters; thence North 41°31'50" West, 249.905 meters to a tangent curve to the right having a radius of 1517.000 meters and a central angle of 2° 09' 09"; thence along said curve 56.988 meters to a point on the southerly line of Anita Road, which bears South 61°32'19" East, 38.134 meters from a 5/8" rebar with a Caltrans aluminum cap marking the southwesterly terminus of the course described in the deed to the State of California, recorded February 24,

**PARCEL 031812-1**

(continued)

1977, in Book 2146 of Official Records, Page 675, in the office of the Recorder of the County of Butte, State of California, which reads "N. 60°19'18" E. 41.89 feet".

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 2, as determined by ties to the California High Precision Geodetic Network, Epoch 1991.35. Distances are in meters unless otherwise noted. Multiply distances by 1.00001 to obtain ground level distances. To convert meters to the U.S. Survey foot multiply distance shown by 3937/1200.



1       **PARCEL 031812-2:** An easement for utility (anchor) purposes, with  
2 incidents thereto upon, over and across the lands described in the Grant Deed  
3 recorded November 19, 1975 in Book 2029 of Official Records, Page 566, in the  
4 office of the Recorder of the County of Butte, State of California. Said easement  
5 is a 1 meter strip of land lying 0.5 meters on each side of the following described  
6 line:

7       Commencing at a point on the westerly line of Parcel No. 2 of "Map of the  
8 PRIESING LANDS", filed May 24, 1911, in Book 7 of Maps, Page 23, in the office  
9 of the Recorder of the County of Butte, State of California, which bears  
10 North 06°18'40" East, 58.616 meters from a 1" iron pipe stamped "RCE 16803";  
11 thence leaving said westerly line of Parcel No. 2, North 26°53'12" West, 535.136  
12 meters to a tangent curve to the left having a radius of 583.000 meters and a  
13 central angle of 15° 24' 07"; thence along said curve 156.719 meters; thence  
14 North 42°17'19" West, 217.214 meters; thence North 41°59'46" West, 495.595  
15 meters; thence North 41°31'50" West, 249.905 meters to a tangent curve to the  
16 right having a radius of 1517.000 meters and a central angle of 1° 45' 01"; thence  
17 along said curve 46.342 meters to the POINT OF BEGINNING of said described  
18 line; thence South 54°04'50" West, 5.000 meters being the terminus of said line.

19       The bearings and distances used in the above description are based on  
20 the California Coordinate System of 1983, Zone 2, as determined by ties to the  
21 California High Precision Geodetic Network, Epoch 1991.35. Distances are in  
22 meters unless otherwise noted. Multiply distances by 1.00001 to obtain ground  
23 level distances. To convert meters to the U.S. Survey foot multiply distance  
24 shown by 3937/1200.

1       **PARCEL 031812-3:** An easement for utility purposes and incidents  
2 thereto over and across the lands described in the Grant Deed recorded  
3 November 19, 1975 in Book 2029 of Official Records, Page 566, in the office of  
4 the Recorder of the County of Butte, State of California. Said easement is a  
5 portion of land lying southwesterly of the line described in Parcel 031812-1  
6 above, more particular described as follows:

7       Beginning at the northerly terminus of the curve described in Parcel  
8 031812-1 herein above, said curve being a tangent curve to the right having a  
9 radius of 1517.000 meters, a central angle of 2° 09' 09", with a distance along  
10 said curve of 56.988 meters, said terminus being a point on the southerly line of  
11 Anita Road, which bears South 61°32'19" East, 38.134 meters from a 5/8" rebar  
12 with a Caltrans aluminum cap marking the southwesterly terminus of the course  
13 described in the deed to the State of California, recorded February 24, 1977, in  
14 Book 2146 of Official Records, Page 675, in the office of the Recorder of the  
15 County of Butte, State of California, which reads "N. 60°19'18" E. 41.89 feet";  
16 thence from said POINT OF BEGINNING South 89°48'12" West, 7.190 meters  
17 along said southerly line of Anita Road; thence leaving said southerly line  
18 South 58°42'53" East, 16.964 meters to a point on said curve having a radius of  
19 1517.000 meters; thence northwesterly along said curve 11.463 meters to the  
20 POINT OF BEGINNING.

21       The bearings and distances used in the above description are based on  
22 the California Coordinate System of 1983, Zone 2, as determined by ties to the  
23 California High Precision Geodetic Network, Epoch 1991.35. Distances are in  
24 meters unless otherwise noted. Multiply distances by 1.00001 to obtain ground  
25 level distances. To convert meters to the U.S. Survey foot multiply distance  
26 shown by 3937/1200.

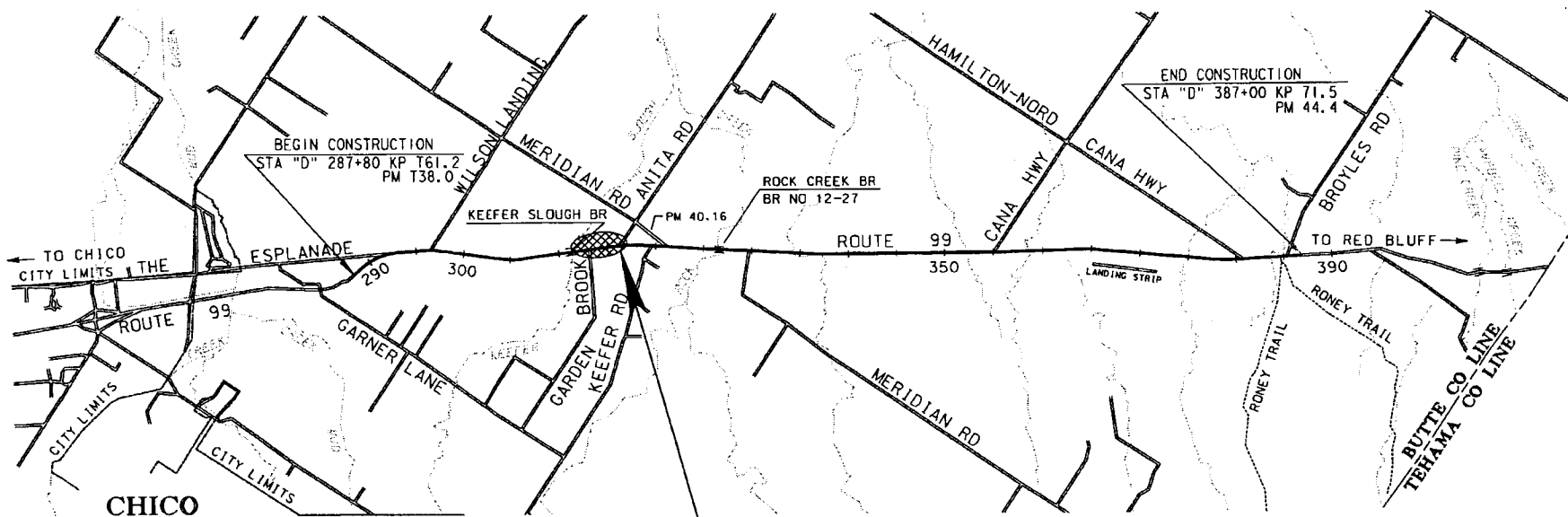
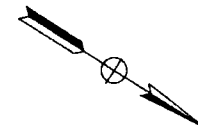
**PARCEL 031812-4:** For State highway purposes, all underlying fee interest, if any, in and to the existing State Route 99 and Anita Road appurtenant to Parcel 031812-1 described above.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Original signed by \_\_\_\_\_  
Signature \_\_\_\_\_  
Professional Land Surveyor

Date \_\_\_\_\_

# EXHIBIT A



PARCELS 031812-1, 2, 3 & 4

TO BE CONDEMNED

RESOLUTION OF  
NECESSITY MAP

NO SCALE

DIST	COUNTY	ROUTE	KILOMETER POST POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.0

T23N R1E MDM

SEC 31

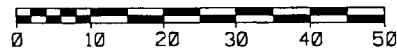
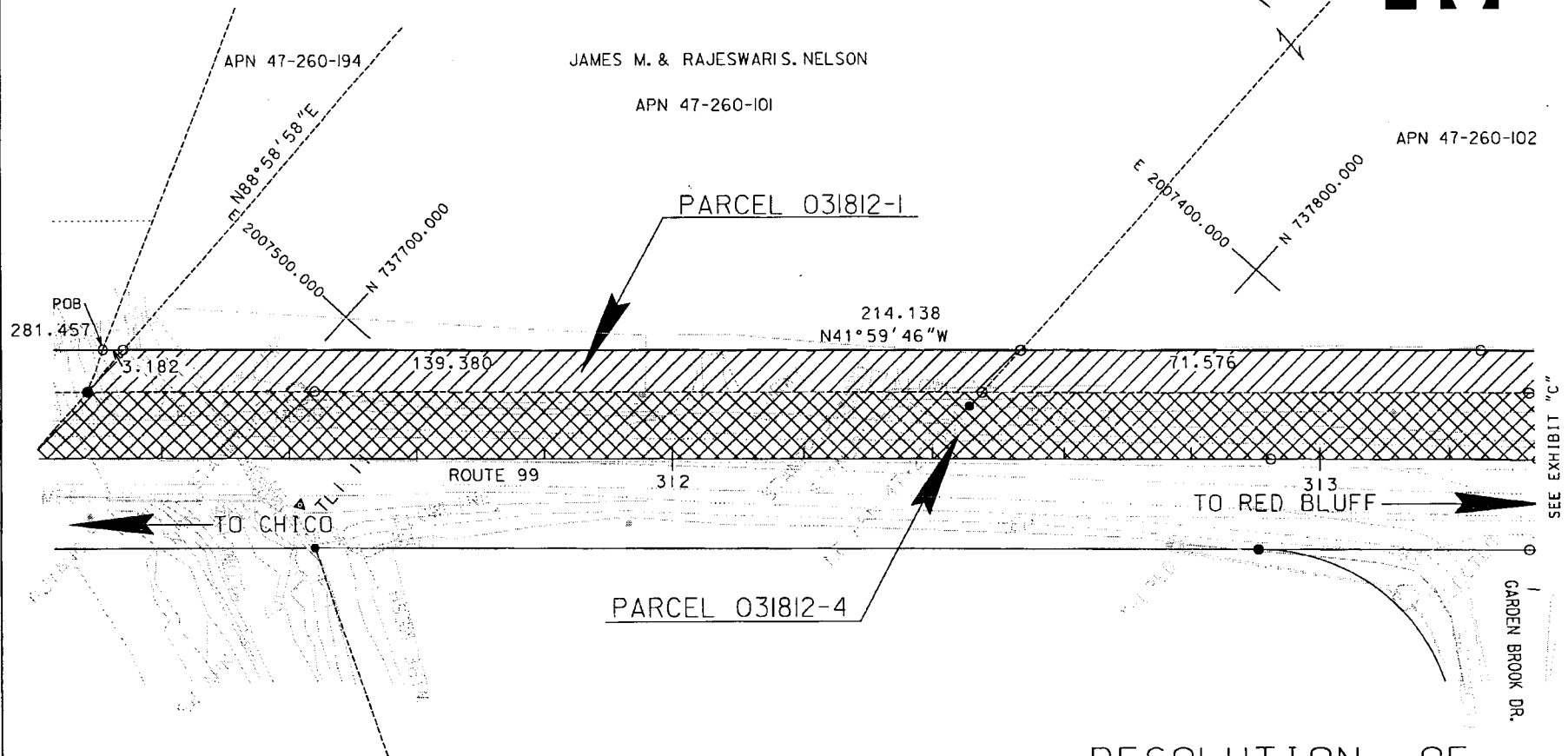
EXHIBIT B



JAMES M. & RAJESWARIS. NELSON

APN 47-260-101

APN 47-260-102



RESOLUTION OF  
NECESSITY MAP

DIST	COUNTY	ROUTE	KILOMETER POST/ POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.1



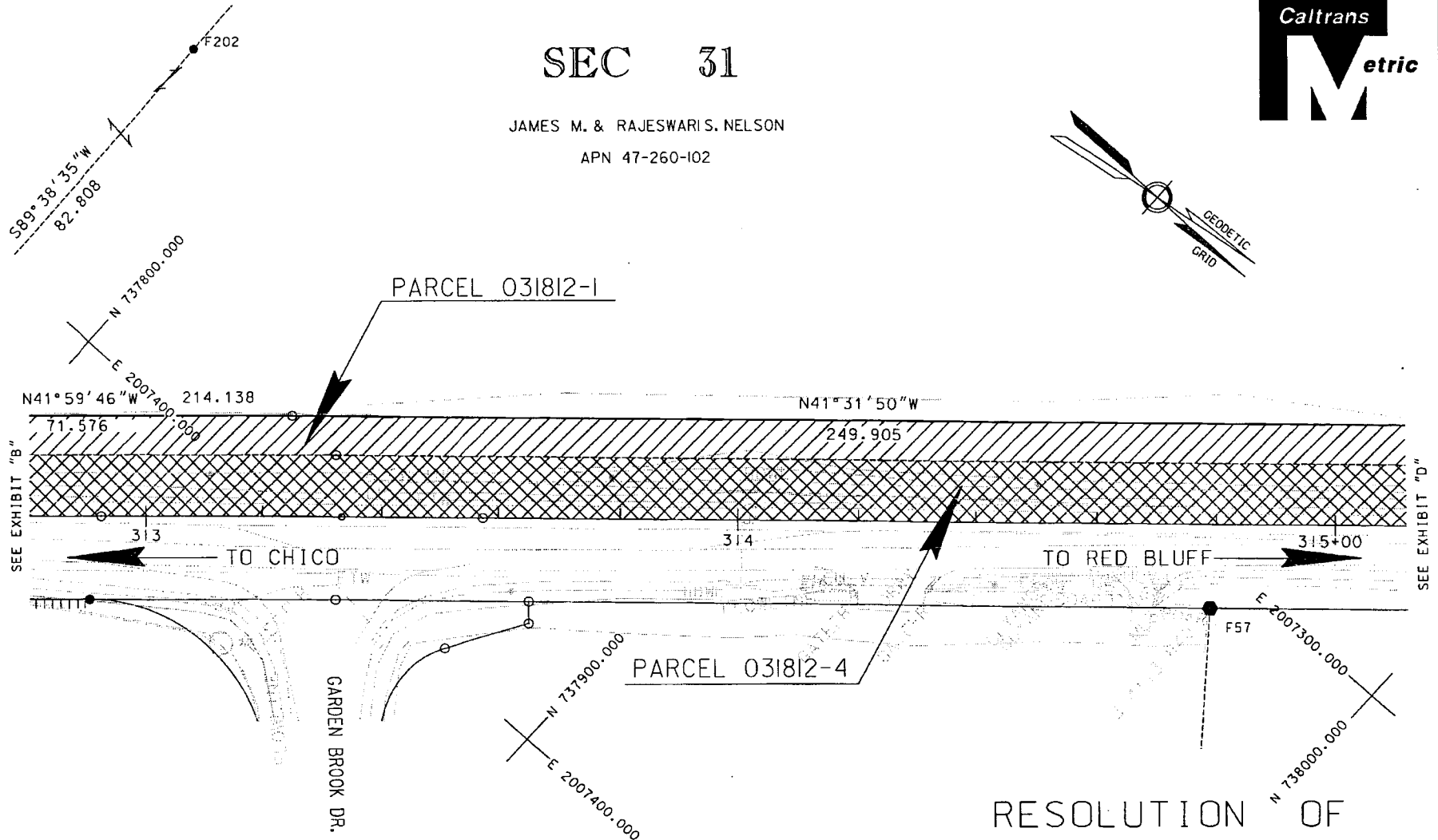
T23N R1E MDM

SEC 31

JAMES M. & RAJESWARIS. NELSON

APN 47-260-102

EXHIBIT C



RESOLUTION OF  
NECESSITY MAP

DIST	COUNTY	ROUTE	KILOMETER POST/ POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.2

T23N R1E MDM

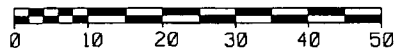
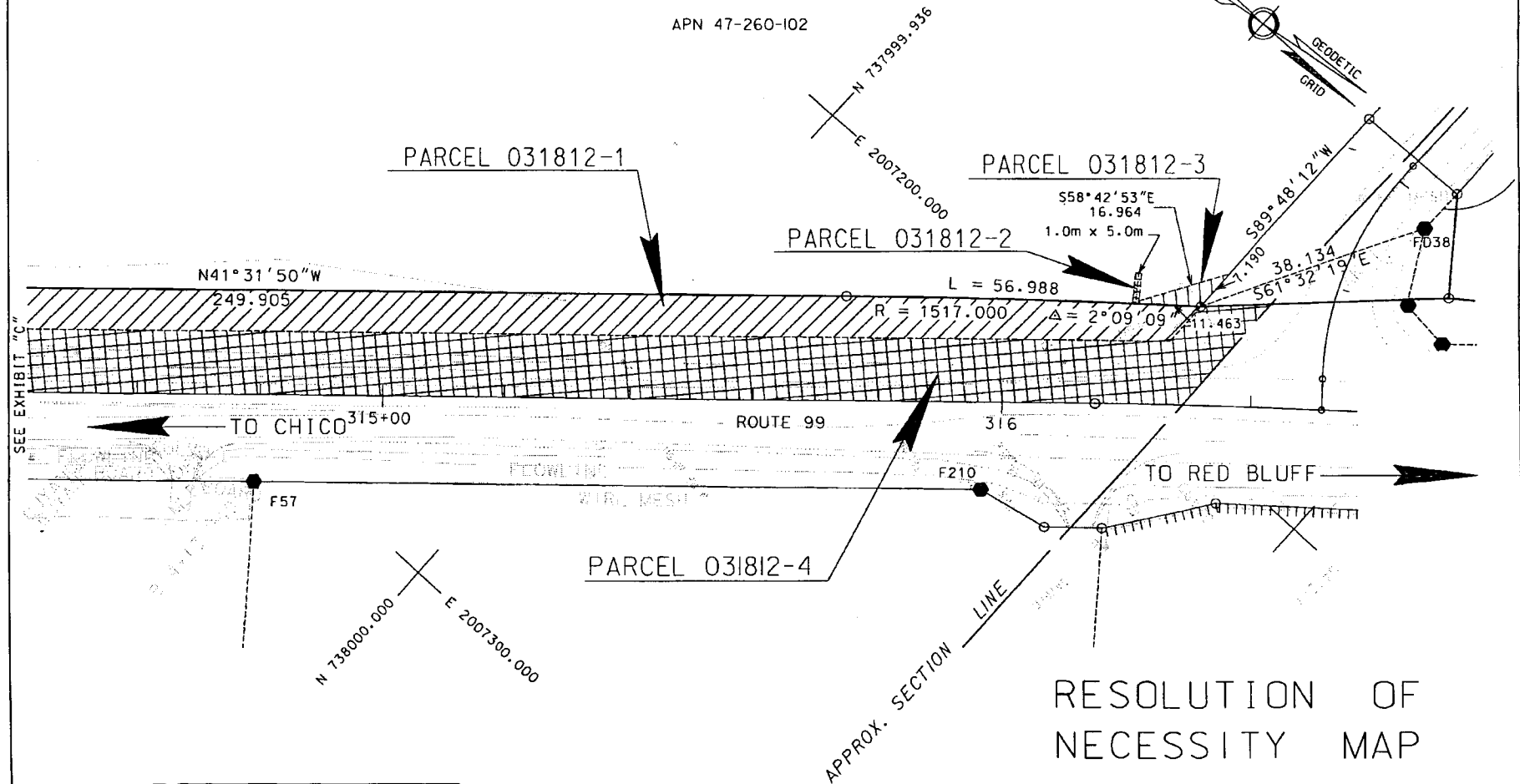
SEC 31

EXHIBIT D



JAMES M. & RAJESWARIS. NELSON

APN 47-260-102



DIST	COUNTY	ROUTE	KILOMETER POST/ POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.3